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## BEFORE THE ARIZONA CORPORATION COMMISSION RECEIVED

WILLIAM A. MUNDELE <sup>Arizona Corporation Commission</sup>  
 Chairman  
 JAMES M. IRVIN  
 Commissioner  
 MARC SPITZER  
 Commissioner

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AZ CORP COMMISSION  
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IN THE MATTER OF U S WEST  
 COMMUNICATIONS, INC.'S  
 COMPLIANCE WITH § 271 OF THE  
 TELECOMMUNICATIONS ACT OF 1996

Docket No. T-00000A-97-0238

MOTION TO STRIKE  
 QWEST'S COMMENTS

Consistent with procedural order dated June 12, 2000, AT&T Communications of the Mountain States, Inc., TCG Phoenix and WorldCom Inc., on behalf of its regulated subsidiaries (collectively "Joint Intervenors") hereby move for an order striking Qwest Corporation's ("Qwest") late-filed comments regarding the "Final Report on Qwest's Compliance with Checklist Item No. 14 - Resale." As grounds therefore, AT&T states as follows:

1. On June 12, 2000, Assistant Chief Administrative Law Judge, Karen E. Nally, issued a procedural order defining the filings and due dates in this proceeding. This order mandates that comments regarding Staff reports, if any, should be filed within ten days of issuance of the report. Procedural Order at 4. Thereafter, Staff is to submit its final report to the Hearing Division, with a procedural recommendation. *Id.* The Order does not contemplate further action by the parties unless the Hearing Division sets the matter for further briefing or argument. *Id.*

2. Staff issued its draft resale Report for party comment on June 29, 2001. Any comments related thereto were due on or before July 9<sup>th</sup>. The Hearing Division has not assigned further briefing or argument in relation to the "Final Report on Checklist Item 14 – Resale" issued on July 27<sup>th</sup>.

3. Despite the fact that no further argument is contemplated, Qwest filed more comments on August 6, 2001. In these comments Qwest proceeds to augment its record and make arguments regarding its Performance Assurance Plan, which was never placed in the workshop record regarding resale issues. In addition, Qwest selectively employs and promotes the Multi-State Facilitator's statement in an effort to add to the record and further influence the outcome.<sup>1</sup>

4. Because the other parties to these proceedings are bound to the briefing and comment schedules, Qwest too should be equally bound. It is wholly inappropriate and inequitable to the opposing parties for Qwest to take never-ending opportunities to continue to amend and alter its arguments. This is particularly true where, as here, Qwest's comments cite to evidence that is not in the record and make representations regarding such evidence that are not accurate.

WHEREFORE, the Joint Intervenors respectfully request that the ALJ, strike Qwest's August 6, 2001 comments as an inappropriate violation of the procedural schedule and order Qwest to cease making any similar filings.

Dated this 17<sup>th</sup> day of August, 2001.

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<sup>1</sup> The Arizona Commission should not be influenced by a facilitator it did not hire nor one that it does not oversee to determine whether his or her decisions are legally sound regardless of whether those decisions favor Qwest or the Joint Intervenor's positions.

**AT&T COMMUNICATIONS OF THE  
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## CERTIFICATE OF SERVICE

I certify that the original and 10 copies of Motion to Strike Qwest's Comments in Docket No. T-00000A-97-0238 were sent by overnight delivery on August 17, 2001 to:

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